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09/753,437	01/03/2001	Subodh K. Raniwala	40002-10217	3542

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EXAMINER

CHORBAJI, MONZER R

ART UNIT

PAPER NUMBER

1744

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/753,437

Applicant(s)

SUBDOH K. RANIWALA

Examiner

MONZER R CHORBAJI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other:

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mechanism for cleaning the exterior surface of the bottles must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1, 4, 16, 19, 29, and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 10; applicant uses the term "sufficiently sterile". Does the applicant mean that the bottle is sterile? Claim 1 would be clearer if the word "sufficiently" is removed. Clarification is needed to understand the meaning of claim 1.

In claim 1, line 7; applicant uses the term "substantially eliminate". Is there a range of values for eliminating microorganisms in order to achieve sterility in accordance with the invention? Clarification is needed in order to understand the meaning of claim 1. The same applies to claims 16 and 29.

In claim 4, line 2; applicant uses the term "supersaturated solution". The meaning of this term is not clear in the specification. Clarification is needed in order to understand the meaning of claim 2. The same applies to claims 19 and 32.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 1-11, 13, 15-25, and 28-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Richter et al (U.S.P.N. 6,326,032).

With respect to claims 1, 16, and 29; Richter et al discloses the following: a system (col.1, line 11), a method (columns 9 and 10), and an apparatus (figure) for sterilizing bottles (col.5, lines 1-6), source of a liquid sterilizing agent (figure, 101), means for introducing sterilizing agent in the form of discrete atomized liquid particles (col.4, line 35) to eliminate microbial contamination of bottles in sufficient concentration (col.3, line 45) and for a sufficient contact time (col.4, lines 36-37), means for removing sterilizing agent from all the interior and exterior surfaces of bottles (col.4, lines 38-41).

With respect to claims 2, 17, and 30; Richter et al teaches the use of a spray device (col.4, lines 32-36), which inherently impinges, and spreads on the bottle surface. Thus, resulting in wetting the surface.

With respect to claims 3-4, 18-19, and 31-32; Richter et al teaches that the sterilizing agent is heated (col.2, lines 25-26) but not the bottles. Thus, the bottles are at a different temperature than the heated sterilizing agent inherently causing condensation of particles onto the bottle surface. In addition, Richter et al teaches of spraying the bottles to cause intimate contact of the surface of the bottle (col.4, lines 33-37), which inherently results in supersaturating the sterilizing agent inside the bottles to promote condensation.

With respect to claims 5-7, 20-21, and 33-35; Richter et al teaches the following: the sterilizing agent source is hydraulic atomizer nozzle (figure, unlabeled nozzles in 102 and 103); liquid droplets are in the form of an aerosol suspension (col.4, lines 34-35); and where all the surfaces are contacted with the sterilizing agent (col.10, lines 49-51).

With respect to claims 8-9, 22-23, and 36-37; Richter et al teaches that the sterilizing agent is introduced in a closed chamber (figure, 102). The sterilizing agent is heated and pressurized to be delivered in a spray nozzle to the bottles. This would inherently result in a build-up of temperature and pressure inside the closed chamber, which is designed to handle such elevated ranges in order to promote condensation of the sterilizing agent on the surfaces of the bottles.

With respect to claims 10-11, 24, and 38-39; Richter et al teaches the following: the temperature of the sterilizing agent is between 60 degree Fahrenheit and 180 degree Fahrenheit (col.2, lines 25-26); the sterilizing agent includes hydrogen peroxide and peracetic acid (col.3, line 45); the sterilizing agent includes an aqueous solution (col.3, line 45) containing about 27.5 % hydrogen peroxide (col.3, lines 12-13) and about 5.8 % peracetic acid (col.3, lines 16-17).

With respect to claims 13, 15, 25, and 28; Richter et al discloses the following: the sterilizing agent is removed from the bottle surface by rinsing the bottle with water (figure, unlabeled nozzles in 103); and the system is operated in a cold-fill liquid product filling operation (figure, and col.2, lines 51-53).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 12, 14, 26-27, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter et al (U.S.P.N. 6,326,032).

With respect to claims 12, 27, and 40; even though Richter et al does not disclose the inversion of the bottles, the apparatus must intrinsically includes the step of inverting the bottles in order to remove the sterilizing agent. However, such an inversion of the bottles before or after introducing the sterilizing agent is well within the scope of a one having ordinary skill in the art of designing plants for sterilizing bottles.

With respect to claims 14, and 26; even though Richter et al does not explicitly disclose the use of compressed air, Richter et al teaches that other means of removing the sterilizing agent from the bottle surface (col.9, lines 63-67) which can include compressed air is well within the scope of a one having ordinary skill in the art of designing plants for sterilizing bottles.

### **Conclusion**

10. The prior art made of record but not relied upon is considered pertinent to applicant's disclosure. In the IDS, Porta et al (U.S.P.N. 4,560,455), Perrier (U.S.P.N. 5,277,207), and Kronseder (U.S.P.N. 5,598,859) teach the concept of inverting bottles in order to be sterilized.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (703) 305-3605. The examiner can normally be reached on M-F 8:30-5:00.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (703) 308-2920. The fax phone

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numbers for the organization where this application or proceeding is assigned are (703) 305-3599 for regular communications and (703) 305-7719 for After Final communications.

13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Monzer R. Chorbaji *MRC*  
Patent Examiner  
AU 1744  
February 24, 2002

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